



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**23 VAC 10-500 – Rules Governing Business, Professional and Occupational License Tax  
Department of Taxation**  
November 5, 2007

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### **Summary of the Proposed Regulation**

The Department of Taxation (Department) proposes to revise the existing Guidelines for Business, Professional and Occupational License Tax (Guidelines) and promulgate the Regulations for Business, Professional and Occupational License (BPOL) Tax based on the Guidelines. The current Guidelines were issued on January 1, 2000. According to § 58.1-3701 of the Code of Virginia (Code), the Guidelines have been subject to the Administrative Process Act and accorded the weight of a regulation since July 1, 2001. Revisions to the 2000 Guidelines include incorporation of statutory changes subsequent to January 1, 2000, changes in style or form to enhance readability or as required by the Virginia Register Form, Style, and Procedure Manual (Manual), omission of non-necessary language, and corrections of technical errors.

### **Results of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

The Department proposes to revise the current Guidelines for BPOL Tax and promulgate the Regulations for BPOL Tax based on the Guidelines. Section § 58.1-3701 of the Code states that, after July 1, 2001, the guidelines shall be subject to the Administrative Process Act and accorded the weight of a regulation under § 58.1-205. The Guidelines were last updated on January 1, 2000.

The Department proposes to incorporate the statutory changes that occurred after January 1, 2000 into the proposed regulations. These revisions will simply quote the language in the Code or provide references to the Code. Since the statutory changes are already in effect, and

since the Code applies whenever there is a conflict between the Code and the regulations, these proposed revisions will likely not have any impact on the regulated community except enhancing the clarity of the regulations.

Examples of these revisions include:

1. Total assessments paid by condominium unit owners for common expenses will be exempt from the BPOL tax as provided by Chapter 303 of the 2002 Acts of Assembly.
2. Real estate brokers and agents will be allowed to claim exclusions for certain gross receipts as provided by Chapter 532 of the 2002 Acts of Assembly.
3. When the Department of Mines, Minerals and Energy (DMME) determines that the weekly U.S. retail gasoline price has increased by 20% or more in one week, and does not fall below that rate for 28 days, the gross receipts taxes on fuel sales of a gas retailer made in the following licensing year shall not exceed 110% of the gross receipt taxes on fuel sales made in the license year of the increase, as stated in Chapter 763 of the 2006 Acts of Assembly.
4. The license application due date will be changed from March 1 to the due date adopted by the localities, since Chapter 119 and Chapter 181 of the 2006 Acts of Assembly authorized localities to establish a license application due date between March 1 and May 1 no later than the 2007 license year.
5. Changes will be made to the review process and appeals process regarding local license and local business taxes as required by Chapter 364 of the 2002 Acts of Assembly and Chapter 927 of the 2005 Acts of Assembly.

The Department also proposes to make changes in style or form to enhance readability or as required by the Manual. Non-necessary language will be omitted and technical errors will be corrected. These proposed changes will improve the clarity of the regulation and will likely reduce the possibility of confusion.

## **Businesses and Entities Affected**

Since the proposed promulgation of these regulations does not effectively change any requirements, no businesses or other entities are significantly affected.

## Localities Particularly Affected

According to the Department, approximately 39 cities, 120 towns, and 45 counties impose some form of business license tax or fee. Since the proposed promulgation of these regulations does not effectively change any requirements, no localities are particularly affected.

## Projected Impact on Employment

Since the proposed promulgation of these regulations does not effectively change any requirements, the proposed regulations will likely not have any impact on employment.

## Effects on the Use and Value of Private Property

Since the proposed promulgation of these regulations does not effectively change any requirements, the proposed regulations will likely not have any impact on the use and value of private property.

## Small Businesses: Costs and Other Effects

The proposed promulgation of these regulations will not adversely affect the small businesses.

## Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed promulgation of these regulations will not adversely affect the small businesses.

## Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small

businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.